IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 2402 of 2007()

CRIME NO.512/2006 OF CHANGANASSERY POLICE STATION

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PETITIONER: DEFACTO /COMPLAINANT/ACCUSED

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1. ANITHA ALIAS ANU, AGED 26,
   D/O. SHEKKARAN NAIR, SHANTHA BHAVAN, KOTTAMURY PO,

2. AJITH KUMAR, AGED 34,
   S/O. LATE G. PURUSHOTHAMAN,
   NAGOONA MANDIRAM,PANDIJI ROAD,
   KUMBALAM , KOCHI.

3. GOMATHI PURUSHOTHAMAN,
   AGED 64, W/O. G. PURUSHOTHAMAN,
   NAGOONA MANDIRAM, PANDIJI ROAD,
   KUMBALAM, KOCHI-506.

4. AJITHA JYOTHISH, AGED 35 YEARS,
   W/O. JYOTHISH, KESAVAMANDIRAM,
   ANGOLICKAL, CHENGANNUR.

BY ADV. SRI.JOHNSON ABRAHAM
SRI.S.GOPINATHAN
SRI.NELSON ABRAHAM

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE,
CHANGANASSERY POLICE STATION BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2402 of 2007

Dated this the 26th day of July 2007

O R D E R

The petitioners are the de facto complainant/wife and husband, mother-in-law and sister-in-law of the de facto complainant who are accused 1 to 3 in the crime registered under Section 498A I.P.C read with 34 I.P.C. The crime was registered on the basis of a private complaint filed by the de facto complainant which is referred by the learned Magistrate to the police for investigation. Investigation is now in progress.

2. At this stage, the petitioners together have come before this court with a prayer that the crime registered and all further proceedings may be quashed invoking the powers under Section 482 Cr.P.C. What is the reason? The learned counsel for the petitioner submits that in as much as the parties have settled their disputes amicably and the first petitioner has compounded all offences allegedly committed by petitioners 2 to 4, it is not necessary at all to continue the present proceedings. Continuance of the proceedings is an anachronism and an unnecessary exercise. The composition may be accepted and further proceedings may be dropped, it is prayed. The learned counsel for the petitioner submits that the spouses have already filed applications before the Family Court under Section 13B of the Hindu Marriage Act. He vouches for the signature of the first petitioner in this petition also.

3. From the submissions made at the Bar and the assertions in the petition and also the documents produced along with the petition, I am satisfied that the parties have willingly and voluntarily settled their disputes and the first petitioner/de facto complainant has compounded the offences allegedly committed by the accused persons. If legally permissible, such composition, I am satisfied, can be accepted. But the offence punishable under Section 498A I.P.C is not legally compoundable. The learned counsel, in these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in these circumstances the provisions of Section 320 Cr.P.C cannot be reckoned as a fetter on the sweep and width of the powers under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the proceedings between the spouses must be brought to premature termination by invoking the powers under Section 482 Cr.P.C as explained in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386].

4. In the result, this petition is allowed. Crime No.512/2006 of Changanassery police station registered against petitioners 2 to 4 on the basis of the complaint filed by the first petitioner is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007